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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,274	09/24/2003	Andy Wolff	26486	3490

7590 04/27/2007  
Martin D. Moynihan  
PRTSI, Inc.  
P. O. Box 16446  
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EXAMINER
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MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/668,274

Applicant(s)

WOLFF ET AL.

Examiner

Elizabeth R. MacNeill

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20, 25-45, 47, 52-59, 61-63, 65-83, 85-87, 89-91 and 93-108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20, 25-45, 47, 52-59, 61-63, 65-83, 85-87, 89-91 and 93-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 March 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 55,57-59,61,81,82,83,85-87,89,109 and 110 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor et al (US 5,090,903).

Taylor teaches an oral device for controlled drug release with at least one reservoir (21-23) and an oral anchoring mechanism of a bridge (11, Fig 1).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-3, 18,20,25-30, 45, 47, 52-54,62,63,65,66,90,91,93,94 rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al (US 5,090,903) in view of Sakuma et al (US 5,584,688)

Taylor teaches an oral device for controlled drug release with at least one reservoir (21-23) and an oral anchoring mechanism of a bridge (11, Fig 1).

Taylor does not teach an electronic release mechanism.

Sakuma teaches an oral infusion device with a micropump (13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the micropump of Sakuma with the dental bridge of Taylor in order to more effectively control and adjust the release of the drug.

3. Claims 17,44,80 and 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor/Sakuma in further view of Child (US 4,252,525).

Taylor/Sakuma teaches the limitations of the claims as above, but fails to teach that there is a component which increases drug transfer through a biological barrier, such as iontophoresis. Child teaches the use of iontophoresis in an oral implant (Fig 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use iontophoresis with the implant of Sakuma in order to improve drug absorption.

4. Claims 4-16, 31-43, 67-79, and 95-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor/Sakura in further view of Pfeller et al (US 5,558,640) and Voyiazis et al (US 2004/0147906).

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Taylor/Sakura teaches the limitations of the claims as above, but fails to teach the use of a sensing component and a telemetry communication component. Pfeller teaches an implantable infusion device with a condition and/or status sensor (2), a processor with timer (4), and a telemetry communication unit (8,12,16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the telemetry and sensor controls of Pfeller in order to provide an additional means to control and communicate with the oral device. Furthermore, Voyiazis teaches these same elements within an oral device. At the time the invention was made, it was well known in the art to use these control means in an oral implant.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-23, 25-50, and 52-110 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, it is noted that "nano-size particles" is taught by any reference since any particle can be measured in nanometers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

*Elyse  
Maitell  
4/14/07*

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*